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## Contract for Services Policy

### Staff Policy

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#### 1 Purpose

The Contract for Services Policy outlines the procedures to be followed in determining the nature of engagement, and the subsequent relationship, between the University and its contractors.

The purpose of this policy is to:

- (a) Ensure the appropriate use of contractor labour within the University;
- (b) Limit spend and dependence on contractors through the use of permanent employees and effective resource planning;
- (c) Avoid tax risk;
- (d) Develop and retain the knowledge and intellectual property rights internally; and
- (e) Ensure the correct classification of people as employees or as contractors so as to minimise the risk of a person's status being challenged.

#### 2 Organisational Scope

The University-wide policy applies to all contractor engagements. This policy applies to New Zealand Residents for tax purposes.

#### 3 Definitions

For purposes of this policy, unless otherwise stated, the following definitions shall apply:

Contractor:	A person or entity engaged by the University to perform work under a Contract for Services.
Contracted Supplier	A supplier that has been awarded a contract with the University after a competitive tender process. (Refer <a href="#">Procurement Policy</a> .)
Employee:	A person employed by the University to perform work for hire or reward under a contract of service.
Letter of Understanding	A high level document that sets out the nature of the business relationship the University may want to have with a person or entity (invitation to treat) for goods and/ or services such as with legal or recruitment services.
New Zealand tax resident	If you are in New Zealand for more than 183 days in any 12-month period, or you have an “enduring relationship” with New Zealand, or you are away from New Zealand in the service of the New Zealand government (refer IR292).

- Manager: An employee who has the delegated authority, as set out in the Delegation Framework, to engage a Contractor on behalf of the University.
- Short Term: A period of time less than 12 months.

## 4 Policy Content and Guidelines

### 4.1 Principles

- (a) The Contract for Services Policy and Procurement Policy cover Contractors, whereas Contracted Suppliers are covered by the Procurement Policy.
- (b) In principle a Contractor should not be undertaking a core activity of the University (for example: teaching, tutoring, curriculum development, and research work); or performing services exclusively for the University (see Appendix A: Status Criteria), which also applies to former staff who have resigned applying to contract back to undertake similar work.
- (c) In principle all Letters of Understanding and Contract for Services should be reviewed annually.

### 4.2 Policy

- (a) The engagement of a Contractor may include the following circumstances:
  - (i) The provision of specialist professional services for projects;
  - (ii) Where a School or Central Service Unit has short-term staffing needs that are unable to be met by other staff or fixed term appointments;
  - (iii) The provision of specific one-off services; and
  - (iv) Academic contracts such as for the delivery of lectures by adjuncts, guest speaker/lecturers, or specialist professionals (refer Adjunct and Visiting Staff Policy).
- (b) The following persons and entities will not be engaged under a Contract for Services:
  - (i) A current Employee of the University, as any additional work should be managed using a variation to a contract of service;
  - (ii) A former Employee of the University who retired, was dismissed or was made redundant (aligned to the value of the redundancy payment).

### 4.3 Engagement Process for Contractors

- (a) Subject to those services awarded after following an appropriate process (refer Procurement Policy) such as with the approval of the Tender Panel, the Manager must ensure that before offering an assignment to a Contractor:
  - (i) The proposed engagement does not give rise to any conflict of interest, which is documented;
  - (ii) Satisfactory references for the Contractor have been obtained in keeping with the Conflicts of Interests Statute; and
  - (iii) Approval for the engagement has been reviewed by the Senior Leadership Team (SLT) Appointments Committee where the total/ combined value in any given year is \$50K or more.

- (b) Where appropriate, a personal credit check and/or a criminal conviction history check will be undertaken.

#### **4.4 Determining Status of the Person or Entity**

- (a) A Manager who wishes to engage a person or entity to provide services to the University must complete the Status Criteria Table in Appendix A to determine if they should be an Employee or a Contractor.
- (b) Subject to clauses 4.2 and 4.3, if it is determined that the person or entity should be engaged as a Contractor, the person or entity will be offered a Contract for Services in accordance with this policy.
- (c) If it is determined that the person or entity should be employed as an Employee, the person or entity will be offered an employment agreement in accordance with the recruitment and selection procedure as outlined in the HR Toolkit.

#### **4.5 Contract Terms and Tenure**

- (a) A properly executed Contract for Services (refer Appendices C & D), signed by a Head of School or Central Service Unit Manager (or more senior manager) with the requisite delegated authority<sup>1</sup>, must be in place before the agreed services are commenced unless:
  - (i) The work to be performed is of a professional advisory nature, and the Contractor has been previously engaged by the University where a letter of understanding exists in which case a written contract will not always be necessary; and
  - (ii) The value of the services being provided is up to \$50K, and no conflicts of interest, where:
    - Up to \$500 no documentation is required (within delegated authority and with a itemised receipt);
    - From \$501 to \$2,000 there has been selective procurement (pre-Qualified suppliers – note: refer to Finance list and add where appropriate); and
    - From \$2,001 to \$50K there is written quotation.
- (b) Any modification of substance to the Contract for Services templates, for Contractors, must be expressly approved by the University's Employment Relations Manager.
- (c) All contract extensions taking the cumulative total to \$50K or over must be expressly approved by the SLT Appointments Committee or a member of the Senior Leadership Team.
- (d) The Manager will retain and provide adequate records to document the transaction including, but not limited to the Contract for Services, letter of engagement, Status Criteria Table and evidence of insurance cover for contracts over \$100K and where appropriate below this value.

#### **4.6 Payment for Services of Contractor**

- (a) Whenever possible, a Contractor who has an hourly rate of \$100.00 or more, or is required to work five (5) hours or more on any given day will be engaged on a daily rate.
- (b) The Manager will determine whether or not the Contractor is subject to withholding tax in accordance with Appendix B.

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<sup>1</sup> Note: delegations **can not** be sub-delegated.

- (c) Where the Contractor is subject to withholding tax, the Manager will:
- (i) Forward the following documents to HR Payroll upon receipt of the signed contract from the Contractor:
    - Signed Contract for Services
    - Letter of engagement (verification of work visa where required)
    - Status Criteria Table
    - IR330 Tax Code Declaration.
  - (ii) Forward any invoices from the Contractor to HR Payroll immediately upon receipt. Note: the Contractor's details and tax invoice details must match.
- (d) Where the Contractor is not subject to withholding tax and is or is not a registered company or a partnership, the Manager will forward the following documents to Manager Financial Systems (Finance) upon receipt of the signed contract from the Contractor:
- (i) Signed Contract for Services
  - (ii) Letter of engagement (verification of work visa where required)
  - (iii) Status Criteria Table
  - (iv) Invoices (as these arrive).
- (e) No advance payment to a Contractor will be made for services to be rendered, before the contract period, except as expressly approved by or a member of the Senior Leadership Team or the University's Employment Relations Manager.

#### **4.7 Contract Management**

- (a) Contractors are engaged to meet specific business requirements and must be well managed.
- (b) The Manager is responsible for ensuring that:
- (i) The Contractor is properly inducted and appropriate access provided (such as with IT), particularly in regard to the University's health and safety (refer Contractor Health & Safety Guide) and ITS policies and procedures; and
  - (ii) All University property in the Contractor's possession is returned before the term of the Contract for Services expires.

## **5 Legislative Compliance**

The University is required to manage its policy documentation within a legislative framework. The legislation directing this policy is the:

[Construction Contracts Act 2002](#)

[Contracts \(Privity\) Act 1982](#)

[Credit Contracts and Consumer Finance Act 2003](#)

[Employment Relations Act 2000](#)

[Frustrated Contracts Act 1944](#)

[Illegal Contracts Act 1970](#)

[Income Tax Act 2007](#)

[Minors' Contracts Act 1969](#)

[Public Bodies Contracts Act 1959](#)

## 6 References

[Adjunct and Visiting Staff Policy](#)

Conflicts of Interest Statute

Contractor Health & Safety Guide

HR Toolkit

Delegation Framework

[IR292 \(August 2008\) New Zealand tax residence: Who is a New Zealand resident for tax purposes](#)

Procurement Policy

[Management of External Research, Consultancy and Related Contracts Policy](#)

## 7 Appendices

[Appendix A: Status Criteria Table](#)

[Appendix B: Withholding payments](#)

[Appendix C: Template – Contract for Services](#)

[Appendix D: Template – Contract for Teaching Services](#)

## 8 Approval Agency

Vice-Chancellor

## 9 Approval Dates

This policy was originally approved on: 15 February 2005

This version was approved on: 22 June 2010

This version takes effect from: 22 June 2010

This policy will be reviewed by: 22 June 2013

## 10 Policy Sponsor

Chief Operating Officer

## 11 Contact Person

The following person may be approached on a routine basis in relation to this policy:

Employment Relations Manager

Ext. 5174